IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 13524 of 2007

Date of decision : August 30, 2007

Life Insurance Corporation of India,

.....Petitioner

through Mr. B.R.Mahajan, Advocate

v.

Poonam & another,

.....Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

Prayer in the present writ petition is for the issuance of a writ in the nature of certiorari for quashing the order, dated 17.5.2007 (Annexure P-6), passed by the Permanent Lok Adalat (Public Utility Services) Gurgaon, directing the petitioner-Insurance Corporation to pay full amount of the insurance policy, dated 15.12.1998, within one month from the date of the order, failing which interest @ 12% per annum would be paid.

We have heard learned counsel for the petitioner and perused the paper book.

The sole contention urged is that as respondent No.1's husband went missing on 23.10.2003, her claim, under the insurance policy, could only be accepted upon expiry of a period of seven years, as provided under

the Evidence Act. It is further submitted that merely because the police arrested two persons for the murder of respondent No.1's husband, and trial in respect thereof is in progress, the period of seven years that gives rise to a presumption of a civil death, would not stand waived. It is asserted that the finding of the Permanent Lok Adalat to the contrary is incorrect and consequently, the impugned order be set aside.

We express our inability to accept the contention, urged by counsel for the petitioner. The Permanent Lok Adalat considered the fact that respondent No.1's husband's taxi was hired, whereafter he was murdered, and his dead body was thrown into a canal. The Permanent Lok Adalat also took into consideration the fact that the accused in FIR No.767, dated 2.12.2003, registered under Sections 302/201/364/34 of the IPC, at Police Station City, Gurgaon, had admitted to the murder of respondent No.1's husband and are facing trial in respect thereof. On the aforementioned basis, the Permanent Lok Adalat concluded that respondent No.1 was not required to wait for a period of seven years to establish the fact of civil death. As the factum of death stands prima facie established, it would be inequitable and unjust to expect respondent No.1 to wait for a period of seven years.

No merit. Dismissed in limine.

(RAJIVE BHALLA)
JUDGE

(UMA NATH SINGH)
JUDGE

August 30, 2007
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